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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,988	01/16/2004	Robert McPherson	MCP-001	7900
7590	07/31/2006		EXAMINER	
Charles J. Rupnick PO Box 46752 Seattle, WA 98146			HUH, BENJAMIN	
			ART UNIT	PAPER NUMBER
			3767	

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/758,988	<b>Applicant(s)</b> MCPHERSON, ROBERT	
	<b>Examiner</b> Benjamin Huh	<b>Art Unit</b> 3767	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/20/04.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/20/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-11, 13, & 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Mills (US Patent No. 4979504). The Mills reference discloses a lavage apparatus comprising a manually operable pump 16 with an outer shell that is a resiliently deformable member having a single internal water solution cavity of fixed dimensions and volume and a single opening for filling and emptying the water solution cavity; an elongated tubular spray wand (18,19) of fixed length having a first end fixed to the opening in the pump and a second free end distal from the pump opening and removably coupled to the bulb in a substantially water-tight joint with the mouth, and a spray tip 20 coupled to the free end of the spray wand and angularly rotated relative thereto, the spray tip having a single aperture spray nozzle 21 oriented crosswise to the length of the spray wand for jetting a portion of water solution from the internal water solution cavity when the manually operated pump is operated, see col. 2 line 60 – col. 3 line 30 and abstract.

With respect to claim 11, wherein the spray nozzle further comprises thin-walled tube having a single substantially cylindrical interior flow channel extending therethrough, see figure 2.

With respect to claim 13, wherein the angle at which the spray nozzle extends from a far end of the elongated spray wand further comprises a right angle, see figure 1.

With respect to claim 15, the Mills reference discloses an lavage apparatus in figure 1 comprising a pump 16 formed of a single bulb fully capable of being hand-operable having an outer shell of resiliently deformable material with an interior surface forming a water solution cavity; an integral spray wand (18,19) formed of an elongated thin-walled cylindrical tube of substantially rigid material with an integral coupler 17 formed at one end and communicating with the water solution cavity of the pump, and having a free end distal from the coupler; and a single aperture spray nozzle 21 structured to direct a single stream of liquid crosswise to the elongated tube of the spray wand.

With respect to claim 16, wherein the single aperture spray nozzle is oriented crosswise to the elongated tube of the spray wand, see figure 1.

With respect to claim 17, wherein the single aperture spray nozzle is oriented at a right angle, see figure 1.

With respect to claim 18, wherein the single aperture spray nozzle further comprises a single substantially cylindrical thin-walled tube portion having a substantially cylindrical interior flow channel communicating with a single interior flow channel of the elongated thin-walled cylindrical tube of the spray wand, see figures 1-2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills (US Patent No. 4979504) as applied to claims 1 & 15 respectively and further in view of Sato (US Patent No. 4991777). Now even though Mills does not explicitly disclose an enlarged plug sized to fit into the single opening in the pump and communicate with the internal solution cavity attention is directed to Sato. The Sato reference teaches the use of a enlarged plug (proximal end of 12, and element 13) in figure 2 sized to fit in the single opening in the pump and to communicate with the internal solution cavity with a water tight seal and with a larger diameter than that of the spray wand. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the device of Mills with the device of Sato in order to provide a strong reinforced connector between the pump and wand.

Claims 12 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills (US Patent No. 4979504) as applied to claims 7 & 15 respectively and further in view of Beroza (US Patent No. 4715848). Now even though Mills does not explicitly

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disclose the flow channel to have an inside diameter of one quarter inch attention is directed to Beroza. The Beroza reference teaches the use of a cylindrical interior flow channel having an inside diameter of one quarter inch, see col. 3 lines 41-46. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the device of Mills with the teachings of Beroza so that the flow channel is the desired diameter in order to provide a controlled amount of flow.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mills (US Patent No. 4979504) as applied to claims 7 and further in view of Olson (US patent No. 4692140). Now even though Mills does not explicitly disclose the spray wand to measure about six to eight inches long attention is directed to Olson. The Olson reference teaches the use of a lavage apparatus with a spray wand 20 with a length up to 20 inches but with 6 to 8 inches mentioned as a more convenient length, see col. 5 lines 28-31. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to modify the length of the device of Mills with the teachings of Olson to have the length be of a desired convenient length in order to provide the proper length necessary to perform the procedure.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin Huh whose telephone number is 571-272-8208. The examiner can normally be reached on M-F: 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BHH

BHH

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

*Kevin C. Sirmons*